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John

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
097004,897	01/09/98	BURRIS	W

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IM62/0926

EXAMINER

LAWRENCE JR, F

ART UNIT

PAPER NUMBER

1724

DATE MAILED:

15
09/26/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/004,897

Applicant(s)
William A. Burris

Examiner
Frank Lawrence

Group Art Unit
1724



☒ Responsive to communication(s) filed on Aug 23, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 1-58 is/are pending in the application.

Of the above, claim(s) _____ is/are withdrawn from consideration.

☒ Claim(s) 21-38 is/are allowed.

☒ Claim(s) 1, 5-9, 11-13, 17, 18, 20, 39, 43-45, 47-50, 54, 55, 57, and 58 is/are rejected.

☒ Claim(s) 2-4, 10, 14-16, 19, 40-42, 46, 51-53, and 56 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit:

DETAILED ACTION

Continued Prosecution Application

1. The request filed on August 23, 2000 for a Continued Prosecution Application (CPA) under 37 CFR 1.53(d) based on parent Application No. 09/004,897 is acceptable and a CPA has been established. An action on the CPA follows.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 5, 8, 9, 11-13, 17, 18, 39, 43-45, 47-50, 54 and 55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burris ('993; entire document) in view of Barnes ('016 figure 1; col. 2, line 32 to col. 3, line 39) for reasons given in the previous office action, paper number 9.
4. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burris ('993) in view of Barnes ('016) as applied to claim 1 above, and further in view of Uban et al. ('488; col. 5, lines 8-55) for reasons given in the previous office action, paper number 9.

Art Unit:

4. Claims 20 and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Burris ('993) in view of Barnes ('016) as applied to claims 1 and 39 in paragraph 4 above, and further in view of Norris ('261; figures 1 and 3) for reasons given in the previous office action, paper number 9.

Allowable Subject Matter

5. Claims 2-4, 10, 14-16, 19, 40-42, 46, 51-53 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. Claims 21-38 are allowed.

7. The following is an examiner's statement of reasons for allowance: reasons for allowance have been given in the previous office action for claims 21-38. Also, a batch liquid purifier comprising an ozone generator, a pumping system, a passageway to conduct liquid from a container to a dispensing outlet, an upflow chamber in the passageway, and a movable spout as part of the outlet that can be extended beyond a housing of the purifier.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit:

Response to Arguments

5. Applicant's arguments filed August 23, 2000 have been fully considered but they are not persuasive. Applicant argues that the newly claimed limitations drawn towards the "upflow chamber" define the claims over the cited prior art because the chamber is defined in the specification in a way that distinguishes it over the chambers disclosed in the Barnes ('016) and Burris ('993) patents, however for the purposes of patentability in the apparatus claims, the claimed structure amounts to a chamber of any kind, even when the specification is used to define it. The best instance of description of the upflow chamber structure is on page 6, lines 22-28 of the instant specification where a preferred shape of the upflow chamber is defined but is left open to a broad and vague range of other designs. A positive recitation that the upflow chamber is "wide, thin, and tall" (p. 6, line 24) is an example of structural language that would be given patentable weight in the apparatus claims and would define over the cited references. The function of the upflow chamber which is not disclosed in the cited prior art is what makes the method claims allowable. Also, an air lift pump uses the force of rising bubbles to propel a liquid through a conduit, which suggests that the liquid would not travel faster than the rising bubbles, but either slower or at the same speed as an upward limit.

Applicant also argues that one having ordinary skill in the art would not look to a continuous purification system to modify a batch purification system, however the combination is only made concerning parts of a liquid treatment system that are not related to the overall process and deal with general ozonation treatment of water.

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A response to applicant's arguments against the rejection of claims 6 and 7 is given in the previous office action, paper number 9. Also, the functional limitations of how the indicator operates do not define it over the cited prior art and should instead be expressed as positively recited structure. The use of the phrase "configured to" is vague and should be avoided as a means for defining structural elements.

Applicant argues that the container of Norris ('261) is not removable from the housing however it appears that it would be removable when threaded lock nut (29) is disengaged. The rejection of 14-16 and 51-53 has been withdrawn because the spout of Norris ('261) does not movably extend beyond the housing.

Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Lawrence whose telephone number is (703) 305-0585. The examiner can normally be reached on Monday through Thursday from 8:00 AM to 4:30 PM, and on alternate Fridays from 8:00 AM to 3:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. David A. Simmons, can be reached on (703) 308-1972. The fax number for official after final faxes for this Group is (703) 305-3599, for all other official faxes the number is (703) 305-7718, and for unofficial faxes the number is (703) 305-3602.


Art Unit:

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0651.

FL

A handwritten signature, possibly initials, in black ink.

September 21, 2000

A handwritten signature in black ink, appearing to be "D.A. Simmons".

David A. Simmons
Supervisory Patent Examiner
Technology Center 1700